

Application # 10/725,089

Patent
P-6061**REMARKS**

Claims 1-24 are pending in this application.

I. Allowable Claim 23

Applicant thanks the Examiner for indicating that claim 23 would be allowable if rewritten in independent form, including all of the limitations of the base claim and intervening claims. Applicant respectfully submits that claim 15 is patentable for at least the reasons provided below and that therefore claim 23 — which depends from claim 15 — is likewise patentable.

II. Rejection of Claims 1-24 Under 35 USC § 102

Claims 1-5, 7-10, 12, 15-17, 20-22 and 24 were rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent application No. 6,443,929 to Kuracina et al. ("Kuracina"). In addition, claims 1, 2, 6-8, 10-14 and 24 were rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent application No. 5,584,818 to Morrison et al. ("Morrison").

Independent claim 1 recites a safety needle assembly having, *inter alia*, an *elongated shield pivotably movable* between a first position exposing said needle cannula and a second position encompassing said needle cannula. Similarly, claim 24 recites a safety needle assembly having, *inter alia*, an *elongated shield pivotably connected* to the distal end of the shield housing. In addition, claim 15 discloses a method for passively activating a safety needle assembly comprising, *inter alia*, a *pivotable shield* adjacent the needle assembly hub. Accordingly, each of the claims recite a shield that pivots.

Neither Kuracina nor Morrison disclose, teach or suggest the claimed needle assemblies or method.

Although Kuracina is directed to a needle tip protective device, the needle guard assembly 22 is biased laterally (not pivotally) along hypodermic needle 10. Kuracina does show finger pad that moves in relation to hinge 23; nevertheless, nowhere in Kuracina is there a needle guard assembly that is able to pivot. In sum, Kuracina does not describe disclose, teach or suggest a shield that pivots.

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Similarly, while Morrison discloses "a rotational latch 24", the safety shield 1 is biased laterally (not pivotally) along cannula shaft 2. Nowhere in Morrison is the needle safety shield able to pivot. Morrison does not therefore describe, disclose, teach or suggest a shield that pivots.

For the foregoing reasons, Applicants submit that independent claims 1, 15 and 24 are patentable over Kuracina and Morrison. In addition, because dependent claims 2-14 and 16-23 depend from claims 1 and 15, respectively, these dependent claims are likewise patentable over Kuracina and Morrison.

III. Rejection of Claims 18 and 19 Under 35 U.S.C. § 103

Claims 18 and 19 were rejected under 35 U.S.C. § 103 as being allegedly unpatentable over Kuracina in view of U.S. Patent No. 3,064,648 to Bujan ("Bujan").

Because claim 15 is patentable over Kuracina and Morrison for at least the reasons stated above and because Bujan does not disclose, teach or suggest, *inter alia*, a pivoting shield, claim 15 is patentable over Kuracina, Morrison and Bujan – separately combined. Moreover, because claims 18 and 19 depend from claim 15, these dependent claims are likewise patentable over the cited references.

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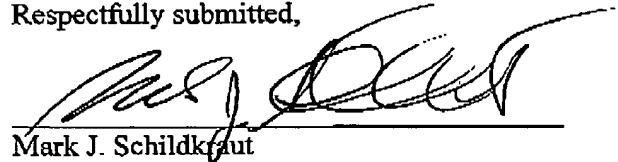
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CONCLUSION

In view of the foregoing, Applicants submit that claims 1-24 are in condition for allowance.

The Commissioner is hereby authorized to charge payment of any additional fees associated with this communication or credit any overpayment to Deposit Account No. 02-1666.

Respectfully submitted,



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